

Drug & Alcohol Testing (Rule 2-7)

Amendments Approved by the Civil Service Commission October 9, 2003, Effective Immediately

In July 2003, the Civil Service Commission approved a new complaint procedure (Rule 2-7.4) for persons whose conditional appointments are rescinded after failing a preemployment drug test. At its meeting on October 9, 2003, the Commission approved amendments to Rule 2-7.4.

The amendments to Rule 2-7.4 provide the following additional requirements:

1. When an appointing authority rescinds a conditional appointment, the appointing authority must give the person *written* notice of the rescission and include *a notice of the new complaint procedure and the filing period*.
2. The period for a person to file a complaint is *increased* from 7 calendar days to *14 calendar days*.
3. The 14-day period for filing the complaint *begins* when the appointing authority either delivers the notice to the person or mails the notice to the person.
4. A complaint must be *received* by the State Personnel Director within 14 calendar days to be timely.
5. If the person files a complaint with the state personnel director, the person must also *file a copy with the appointing authority* that rescinded the appointment.
6. The procedures for reviewing complaints are to be set out in the regulations.

Amendments to Civil Service Rule 2-7.4: Drug and Alcohol Testing; Penalties

Approved October 9, 2003, effective immediately

New text is underlined. Deleted text is ~~struck through~~.

- 2-7.1 Prohibited Activities *[No Change]*
- 2-7.2 Testing Classified Employees *[No Change]*
- 2-7.3 Testing New Hires; Conditional Offer of Employment *[No Change]*
- 2-7.4 Penalties

(a) Classified employees. *[No Change]*

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(b) New hires.

- (1) Rescission of conditional offer of employment.** If a person given a conditional offer of employment fails or refuses to submit to the preemployment drug test, interferes with a test procedure, or tampers with a test sample, the appointing authority must rescind the conditional offer of employment in writing ~~must be rescinded~~. The written rescission must include notice of the complaint procedure and the 14-day time limit provided in subsection (b)(2). ~~and the~~ A person whose conditional offer of employment is rescinded must not be appointed to the position in the classified service. The person also is removed from all applicant pools and is disqualified from appointment to the classified service for a period of 3 years.
- (2) Complaint by applicant.** If a person claims that the rescission of the person's conditional appointment as authorized in subsection (b)(1) was contrary to article 11, §5, of the constitution or a civil service rule or regulation, the person may file a written complaint with the state personnel director.
 - (A)** A complaint must be ~~filed in writing with~~ received by the state personnel director within 714 calendar days after the ~~person was given~~ appointing authority mailed the written notice of the rescission of the conditional offer of employment and this complaint procedure. The person must also file a copy of the complaint with the appointing authority.

- (B) The director shall review the complaint and issue a decision under procedures authorized in the regulations. ~~for technical complaints in rule 8-3.3 [Technical Complaints: Civil Service Technical Review] and rule 8-4 [Summary Dismissal of Grievance Appeal or Technical Complaint].~~
- (C) If the director determines that the rescission was contrary to article 11, §5, of the constitution or a civil service rule or regulation, the director may order an appropriate remedy, including, but not limited to, reinstating the offer of employment, ordering another drug test, or requalifying the person for appointment to the classified service.
- (D) Either the person or the appointing authority may appeal the director's final decision to the civil service commission.

2-7.5 Self-reporting *[No Change]*

2-7.6 Identification of Test-designated Positions *[No Change]*

2-7.7 Continuation of Existing Programs *[No Change]*

2-7.8 Coordination of Rule and Federal Regulations *[No Change]*

2-7.9 Regulations *[No Change]*
